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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,572	05/19/2005	Kinzo Kishida	P1128US	7517

1218 7590 04/26/2007  
CASELLA & HESPOS  
274 MADISON AVENUE  
NEW YORK, NY 10016

EXAMINER
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LIVEDALEN, BRIAN J

ART UNIT	PAPER NUMBER
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2878

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/26/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	Application No. 10/535,572	Applicant(s) KISHIDA ET AL.	
	Examiner Brian J. Livedalen	Art Unit 2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 6, 9, 17 and 18 is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 5 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 10-16, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/23/2007 has been entered.

Claims 1 and 3-20 are pending.

### ***Claim Objections***

Claim 5 is objected to because of the following informalities: Claim 5 still depends from claim 2. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Sahlin et al. (20030063888).

In regard to claim 1, Sahlin discloses (fig. 6) an optical fiber measuring module to be laid on a structure for measuring at least one physical quantity: an optical fiber cable

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(130); a base member (118) for holding the optical fiber cable, and an attachment member (112) for attaching the base member to the structure wherein the base member is configured for being attachable to the attachment member while the base member is holding the optical fiber cable (page 2, paragraphs 0027, 0028); an attaching device (page 3, paragraph 0031) provided between the attachment member and the structure for attaching the attachment member to the structure, and a locking device (104, 106) provided between the base member and the attachment member for locking the base member in the attachment member (page 2, paragraph 0028).

In regard to claim 3, Sahlin discloses (fig. 6) that the attachment device includes an adhering layer (page 3, paragraph 0031) provided on the attachment member and made of an adhesive or welding agent for adhering the attachment member to the structure.

In regard to claim 5, Sahlin discloses that the locking device locks the base member in the attachment member by the engagement of engaging portions (104, 106) provided at the base member with locking portions (128) provided at the attachment member (page 3, paragraph 0029).

***Allowable Subject Matter***

Claims 4, 6, 9, 17, and 18 are allowed.

The following is an examiner's statement of reasons for allowance: Claims 4, 6, 9, 17, and 18 are neither anticipated nor made obvious by the prior art of record.

Claims 4, 6, 9, and 17 are allowed for the reasons set forth in the previous office action dated 5/16/2006.

Claims 7, 8, 10-16, 19, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Claims 7, 8, 10-16, 19, and 20 are neither anticipated nor made obvious by the prior art of record.

In regard to claim 7, the prior art fails to disclose an optical fiber-measuring module as set forth wherein the base member holds multiple fibers at specified distances from each other.

In regard to claim 8, the prior art fails to disclose an optical fiber-measuring module as set forth wherein the base member is strip-shaped and holds multiple fibers.

In regard to claim 10, the prior art fails to disclose an optical fiber-measuring module as set forth wherein the base member is tubular and holds three fibers.

In regard to claim 11, the prior art fails to disclose an optical fiber-measuring module as set forth wherein multiple fibers are spirally placed in a tubular base member.

In regard to claims 12 and 13, the prior art fails to disclose an optical fiber-measuring module as set forth wherein the base member is formed with slits.

In regard to claim 14, the prior art fails to disclose an optical fiber-measuring module as set forth wherein the base member holds the optical fiber in a wavy manner and is formed with notches used to bend the base member.

In regard to claim 15, the prior art fails to disclose an optical fiber-measuring module as set forth in combination with coupling portions provided at the opposite ends of each base member.

In regard to claim 16, the prior art fails to disclose an optical fiber-measuring module as set forth in combination with a polarizing ring.

In regard to claim 19, the prior art fails to disclose an optical fiber-measuring module as set forth wherein the locking device has a zipper structure.

### ***Response to Arguments***

Applicant's arguments filed 2/23/2007 have been fully considered but they are not persuasive.

With respect to Applicant's argument that Sahlin does not disclose "an attachment member for attaching the base member to the structure wherein the base member is configured for being attachable to the attachment member while the base member is holding the optical fiber cable." Sahlin states in paragraph 0028, "Preferably, however, channel 100 is able to slide along mounting member 112 in a direction parallel to its length. **Channel 100 and mounting member 112 may be said to be slideably engagable with one another.**" Accordingly, although this method might not be Sahlin's

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primary method of engagement, the base member is "configured for being attachable to the attachment member while the base member is holding the optical fiber cable."

Although Sahlin teaches attaching the base member using another method and the base member and the attachment member are slideably engaged for other purposes than attachment, the term "attachable" only infers that the base member is capable of being attached to the attachment member. Therefore, although Sahlin doesn't explicitly state attaching the elements by sliding the base member on the attachment member, this deficiency doesn't take away the property of the base member being capable of attachment to the attachment member via sliding.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Livedalen whose telephone number is (571) 272-2715. The examiner can normally be reached on 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



THANH X. LUU  
PRIMARY EXAMINER

bjl